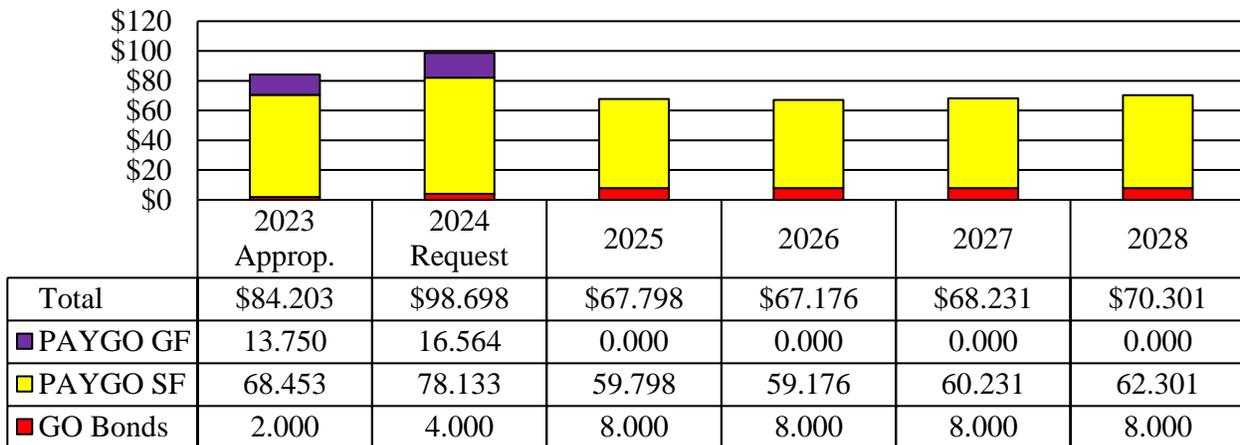
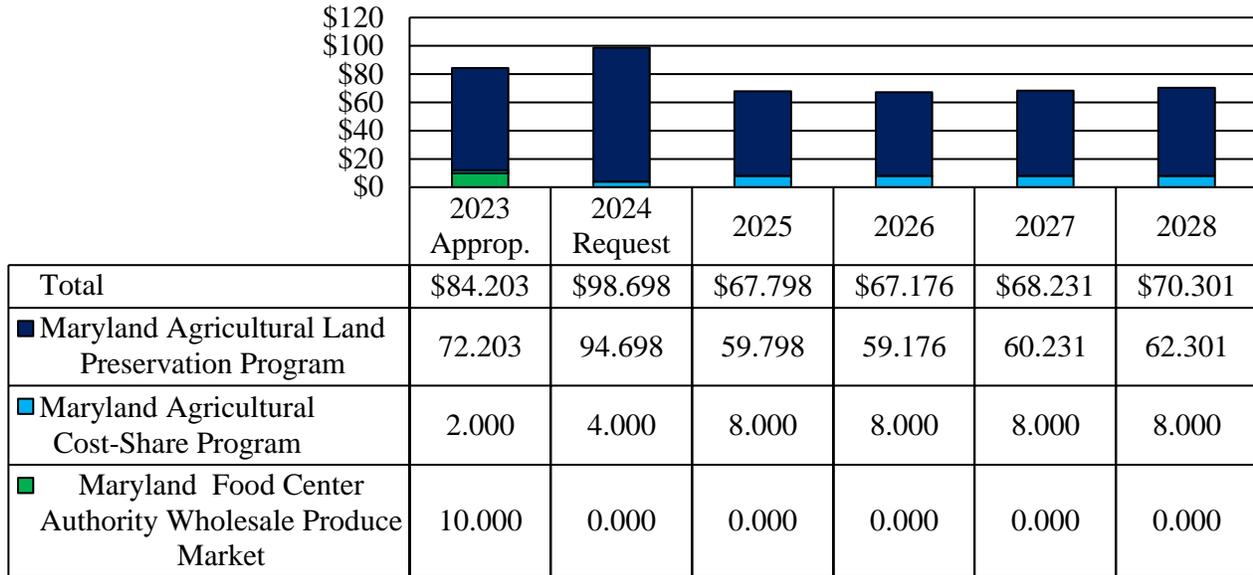


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Capital Budget Summary

Grant and Loan *Capital Improvement Program*
(\$ in Millions)



GF: general funds
GO: general obligation

PAYGO: pay-as-you-go
SF: special funds

Note: For the purposes of these exhibits, the fiscal 2023 funding from the Dedicated Purpose Account – \$3.8 million in transfer tax repayment funding for the Maryland Agricultural Land Preservation Program (MALPP) and \$10.0 million for the Maryland Food Center Authority’s Wholesale Product Market – is reflected as general funds but will be spent as special funds. The fiscal 2024 appropriation reflects \$16.6 million in general funds mandated for the MALPP by Chapter 39 of 2022 (Great Maryland Outdoors Act).

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Key Observations

- ***Maryland Agricultural Cost-Share (MACS) Program Activity Increases but Sustained Activity Remains to Be Seen:*** The MACS program is integral to the success of the agricultural component of Chesapeake Bay restoration. Recent and projected encumbrance activity suggests that the program is ramping up to meet the needs of farmers and the Chesapeake Bay, but it remains to be seen whether this activity level can be maintained.

PAYGO Recommended Actions

1. Concur with Governor’s allowance of \$16,564,469 in general funds and \$78,133,364 in special funds for the Maryland Agricultural Land Preservation Program.

GO Bond Recommended Actions

1. Approve the \$4,000,000 general obligation bond authorization for fiscal 2024 for the Maryland Agricultural Cost-Share Program to provide funds for financial assistance for the implementation of best management practices that reduce soil and nutrient runoff from Maryland farms.

Updates

- ***Maryland Food Center Authority Wholesale Produce Market:*** The fiscal 2023 budget included \$10.0 million in the Dedicated Purpose Account for the Maryland Food Center Authority Wholesale Produce Market project. This funding was moved to the Maryland Department of Agriculture’s (MDA) budget for administrative and oversight purposes, since the Maryland Food Center Authority is a nonbudgeted agency. According to MDA, the overall plan is for MDA to enter into a contract with the Maryland Food Center Authority for disbursement of the funds within five years. The plan was for quarterly reports to be submitted by the authority and for funds to be disbursed upon completion of tasks. The project scope for the Wholesale Produce Market project is as follows: (1) expand the existing dock by 13 feet – provides an additional 73,693 square feet (SF) of refrigerable warehouse space; (2) enclose the existing back dock – provides an additional 36,102 SF of enclosed refrigerable warehouse space; and (3) renovate the existing nonrefrigerated tenanted warehouse space – brings the 249,240 SF building to code. The project is in the schematic design phase, and the plan is to go out for construction bid in January 2024. The authority sent its first report to MDA on February 2, 2023, requesting reimbursement of \$104,410 for work completed through November 1, 2022, by its architecture and engineering firm. The schematic design phase is expected to continue through the end of

February 2023. The design development phase will run from March 1, 2023, to April 15, 2023, and the construction documents phase from July 1, 2023, to December 15, 2023. The total project cost is estimated at \$12.0 million. The State has provided the \$10.0 million noted above. The Maryland Food Center Authority is also seeking \$2.0 million from Howard County over two fiscal years.

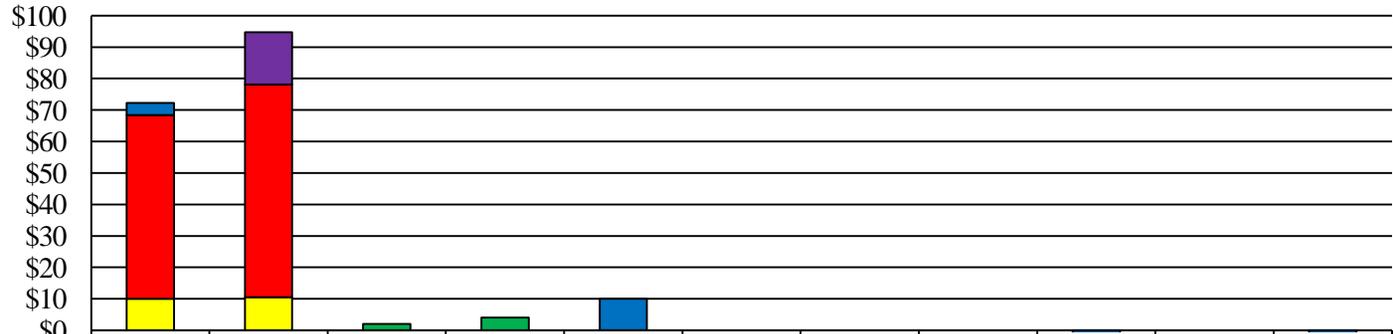
- ***Readiness and Environmental Protection Integration (REPI) Program Still Delayed:*** REPI is a federal cost-share program with state governments, local governments, and conservation organizations. REPI is intended to promote compatible land uses and preserve habitats near military installations. MDA has resolved a number of issues concerning the execution of cost-share agreements, including the enactment of Chapter 622 of 2018, which resolved a statutory incompatibility between the Maryland Agricultural Land Preservation Program (MALPP) and REPI. In May 2022, MALPP and the U.S. Navy entered a memorandum of understanding on how REPI will work in Maryland, which addressed the condemnation language previously deemed unacceptable. The U.S. Navy requires an initial test project before multiple projects can be submitted. Charles and St. Mary’s counties are the likely counties in which a test project will occur, but it will not be known until summer 2023 whether either county has a REPI-eligible initial test project for fiscal 2023 funding.
- ***Agricultural Land Preservation Goal:*** Joint Resolutions 16 and 17 of 2002 created a goal to, by 2022, triple the number of acres, now considered to be a goal of 1,030,000 total acres, of productive agricultural land preserved by MALPP, the Maryland GreenPrint Program, the Rural Legacy Program, and local preservation programs. This goal would not have been met by 2022 given the land preservation progress up to that point. Chapters 284 and 285 of 2021 established the agricultural land preservation goal in statute, extended the deadline from 2022 to 2030, and included acres preserved through the Maryland Environmental Trust and the Maryland Agricultural and Resource-Based Industry Development Corporation’s Next Generation Farmland Acquisition Program. As of June 2022, 868,627 acres, or 84.3%, of the goal have been preserved under these programs. This means that 161,373 acres need to be preserved before 2030, or approximately 23,053 acres per year over the next seven years. MALPP’s preservation of 11,003 acres in fiscal 2022 suggests that, if full funding is provided for the program, it could preserve almost half of the annual acres needed to reach the 2030 goal.

Budget Overview of Grant and Loan Programs

The fiscal 2024 allowance includes \$16.6 million in general funds, \$78.1 million in special funds, and \$4.0 million in general obligation (GO) bonds for a total of \$98.7 million.

Exhibit 1 compares the fiscal 2023 and 2024 funding levels for MALPP, MACS, and Maryland Food Center Authority Wholesale Produce Market.

Exhibit 1
Capital Budget Changes by Fund
Fiscal 2023-2024
(\$ in Millions)



	2023	2024	2023	2024	2023	2024	2023	2024	2023-2024	2023-2024	2023-2024
	MALPP		MACS		Wholesale Produce Market		Total	Total	Diff. MALPP	Diff. MACS	Diff. Market
Total	\$72.2	\$94.7	\$2.0	\$4.0	\$10.0	\$0.0	\$84.2	\$98.7	\$22.5	\$2.0	-\$10.0
■ GF Mandated Funding	0.0	16.6	0.0	0.0	0.0	0.0	0.0	16.6	16.6	0.0	0.0
■ GF Dedicated Purpose Account	3.8	0.0	0.0	0.0	10.0	0.0	13.8	0.0	-3.8	0.0	-10.0
■ SF Transfer Tax	58.5	67.6	0.0	0.0	0.0	0.0	58.5	67.6	9.2	0.0	0.0
■ SF Local Participation	10.0	10.5	0.0	0.0	0.0	0.0	10.0	10.5	0.5	0.0	0.0

GF: general funds
 GO: general obligation
 MACS: Maryland Agricultural Cost-Share Program

MALPP: Maryland Agricultural Land Preservation Program
 SF: special funds

Note: For the purposes of these exhibits, the fiscal 2023 funding from the Dedicated Purpose Account – \$3.8 million in transfer tax repayment funding for MALPP and \$10.0 million for the Maryland Food Center Authority’s Wholesale Product Market – is reflected as general funds but will be spent as special funds.

Source: Department of Budget and Management; Department of Legislative Services

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The fiscal 2024 funding level for MALPP is \$22.5 million more than fiscal 2023 due primarily to (1) an overattainment of fiscal 2022 transfer tax revenues that is applied to fiscal 2024 and (2) a lump sum distribution of general funds as mandated by Chapter 39 of 2022 (Great Maryland Outdoors Act). The overall MALPP funding also includes \$10.5 million in local participation special funds, which is a \$0.5 million increase relative to fiscal 2023. MACS receives \$4.0 million in GO bond funds, which is \$2.0 million more than the GO bond funding provided in fiscal 2023.

MALPP

Program Description: MALPP preserves productive agricultural land and woodland to limit the extent of urban development and protects agricultural land and woodland as open space. MALPP, with the assistance and cooperation of landowners and local governments, purchases development rights easements as a means of protecting agricultural land and woodland production activities. The easement value is determined by subtracting the agricultural value from the appraised fair market value of the property. Once the development rights have been sold, the property is perpetually protected from further development with certain rights available only to the owners who originally sold the easement.

Fund Sources:						
(\$ in Millions)	2023 Approp.	2024 Request	2025	2026	2027	2028
GF	\$3.750	\$16.564	\$0.000	\$0.000	\$0.000	\$0.000
SF	68.453	78.133	59.798	59.176	60.231	62.301
Total	\$72.203	\$94.698	\$59.798	\$59.176	\$60.231	\$62.301

- Changes:** The overall funding level in fiscal 2024 reflects \$16.6 million in general funds mandated by Chapter 39, \$67.6 million in transfer tax special funds, and \$10.5 million in local transfer tax contribution. The fiscal 2024 funding level is different from the \$65.0 million programmed in the 2022 *Capital Improvement Program* (CIP) due to the following: (1) transfer tax revenue in fiscal 2022 was greater than the amount budgeted (overattainment), which is then budgeted in fiscal 2024; (2) Chapter 39 mandated a lump sum repayment for MALPP of \$16.6 million in general funds in fiscal 2024; and (3) the local transfer tax contribution estimate increases from \$10.0 million to \$10.5 million.
- Encumbrances and Expenditures:** Data as of December 13, 2022, indicates that for all years prior to fiscal 2019, there is \$5.5 million to be encumbered and \$6.7 million to be expended. The current planned activity for fiscal 2023 reflects \$93.1 million in revenues (\$20.9 million in beginning balance and \$72.2 million in fiscal 2023 funding) but only \$63.0 million in encumbrances, which leaves \$30.1 million available for fiscal 2024. Historically, the program is very efficient at encumbering and expending funds.

- **Concerns:** No federal funding is reflected for MALPP, which means that there has been no change in the restrictive requirements attached to the federal funding from the Agricultural Easement Conservation Program. MDA notes that it has engaged with the Natural Resources Conservation Service about the restrictive requirements on the federal funding in recent years. The minimum easement terms that continue to block use of the federal funding include the following, although MDA notes that the 2023 Farm Bill could present an opportunity to address these issues.
 - **Indemnification Requirement:** There is a standard requirement for paying the federal government for the costs related to easement violations. MDA continues to work with the Natural Resources Conservation Service on an exception to the indemnification requirement.
 - **Maximum Impervious Surface Limitation:** There is a maximum impervious surface limitation on all easements, which MDA has noted could prohibit certain types of farms from eligibility, such as poultry, greenhouse, and equestrian operations.
 - **Family Lot Limitations:** There is a limitation on the family lot option – the ability to reserve a portion of the property for development by a family member – which MDA has noted is exercised by the majority of easement holders and is a primary reason for landowner interest in the agricultural easements in the first place.
 - **Procedural Changes to Prior Easement:** The procedural review process for previously funded easements under the Farm and Ranch Lands Protection Program has been modified, which has increased the time, cost, and outcome uncertainty for landowners who try to resolve easement issues.
- **Other Comments:** Staffing is an ongoing challenge for MALPP due to staff turnover, the support required from the Department of General Services, and the increased processing needs as a result of the available transfer tax funding supporting the program. The estimated cost per acre for MALPP easements is projected to be approximately \$4,250 in fiscal 2024 based on fiscal 2022 easement acquisition costs, which will allow for the preservation of an estimated 22,282 acres. Of note, the estimated cost per acre increased from \$4,000 in fiscal 2021 to \$4,250 in fiscal 2022.

MACS

Program Description: MACS provides financial assistance to Maryland farmers for installing 1 or more of 30 nationally recognized best management practices (BMP) that reduce soil and nutrient runoff from farmland. MACS requires a minimum 12.5% cost-share match from grantees for all but fixed natural filter practices. State financial assistance for most BMPs is limited to \$50,000 per project or \$150,000 per farm. These limits increase to \$200,000 per project and

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\$300,000 per farm when proposed BMPs include animal waste storage facilities. Chapter 120 of 2021 increased from 87.5% to 100% the percentage of eligible costs for which State cost-sharing funds may be used for projects that prevent or control agriculturally related nonpoint source water pollution by using fixed natural filter practices.

Fund Sources:						
(\$ in Millions)	2023 Approp.	2024 Request	2025	2026	2027	2028
GO Bonds	\$2.000	\$4.000	\$8.000	\$8.000	\$8.000	\$8.000
Total	\$2.000	\$4.000	\$8.000	\$8.000	\$8.000	\$8.000

- **Changes:** The fiscal 2024 funding level is less than the \$7.0 million programmed in the 2022 CIP for fiscal 2024 due to the availability of \$6.6 million in prior year funding in fiscal 2024. As a result, the fiscal 2024 spending plan includes the \$6.6 million in prior year funding along with \$4.0 million in new fiscal 2024 funding for a total of \$10.6 million.
- **Encumbrances and Expenditures:** No funding remains unencumbered or unexpended prior to fiscal 2019. According to the Department of Budget and Management, the fiscal 2022 encumbrance of \$9.7 million is a record for MACS. Going forward, MDA projects that it will encumber \$5.0 million between February 15, 2023, and June 30, 2023. For illustrative purposes, this would equate to approximately \$15.0 million in annual encumbrances if this level of activity was maintained for the whole year.
- **Concerns:** The MACS program is integral to the success of the agricultural component of Chesapeake Bay restoration. Recent and projected encumbrance activity suggests that the program is ramping up to meet the needs of farmers and the Chesapeake Bay, but it remains to be seen whether this activity level can be maintained.

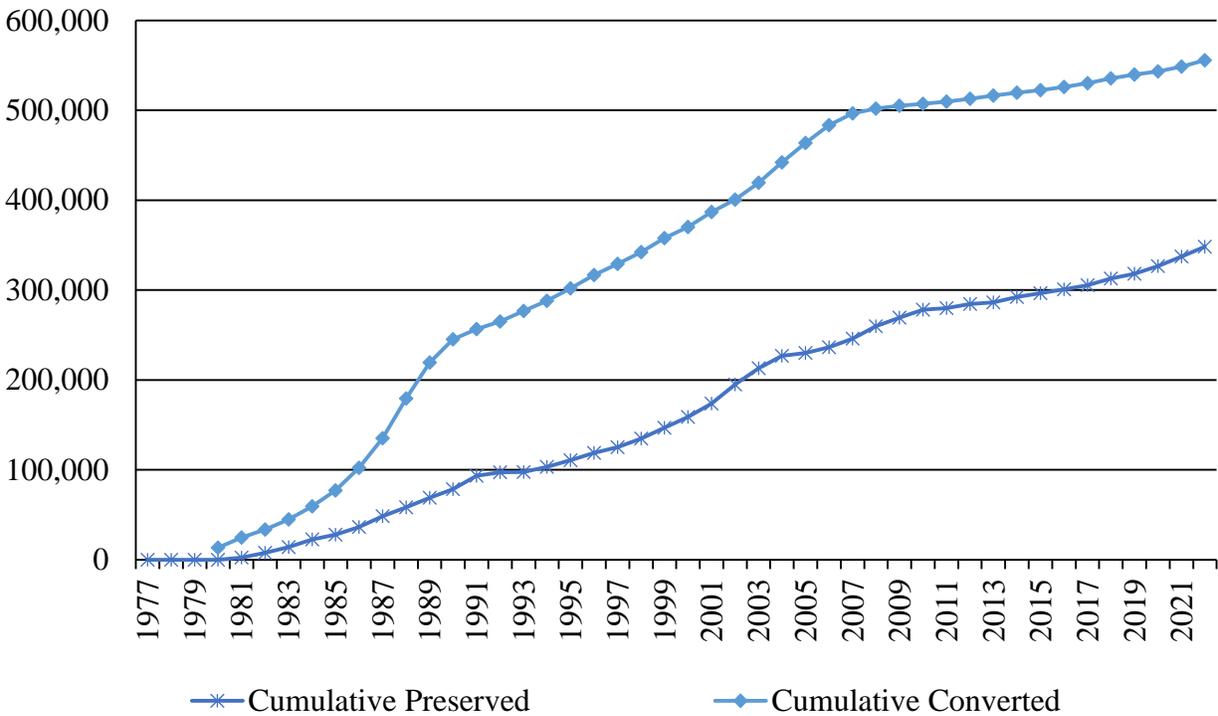
Performance Measures and Outputs

MALPP

Agricultural land is desirable for conversion to other uses, such as residential development. MALPP is one tool for keeping farmland in agricultural production, and the agricultural use assessment is another tool for taxation purposes. **Exhibit 2** reflects the cumulative agricultural land preserved by MALPP versus the agricultural land converted to development purposes from fiscal 1977 to 2022. During this time period, the amount of cumulative agricultural land converted has exceeded the cumulative amount conserved. As shown in **Exhibit 3**, more recently during the peak Great Recession years, significantly more farmland was preserved than converted to nonagricultural use, which correlates with less development pressures occurring during an economic recession. Since that time, as the State’s fiscal condition improved, more land also has been preserved than developed. In fiscal 2022, for instance, there was a net increase in the annual acres preserved due to 11,003 acres being preserved, which was more than one and half times the

7,229 acres converted to development. The acres protected under MALPP in fiscal 2022 was the highest number protected since fiscal 2008 and also the second year in a row that over 10,000 acres have been preserved. This is a direct result of returning to a single-year application cycle in fiscal 2019. Of note, the 7,229 acres converted to development in fiscal 2022 is also the highest number of acres converted since fiscal 2007.

Exhibit 2
Cumulative Agricultural Land Preserved by MALPP versus
Cumulative Agricultural Land Converted
Fiscal 1977-2022
(in Acres)

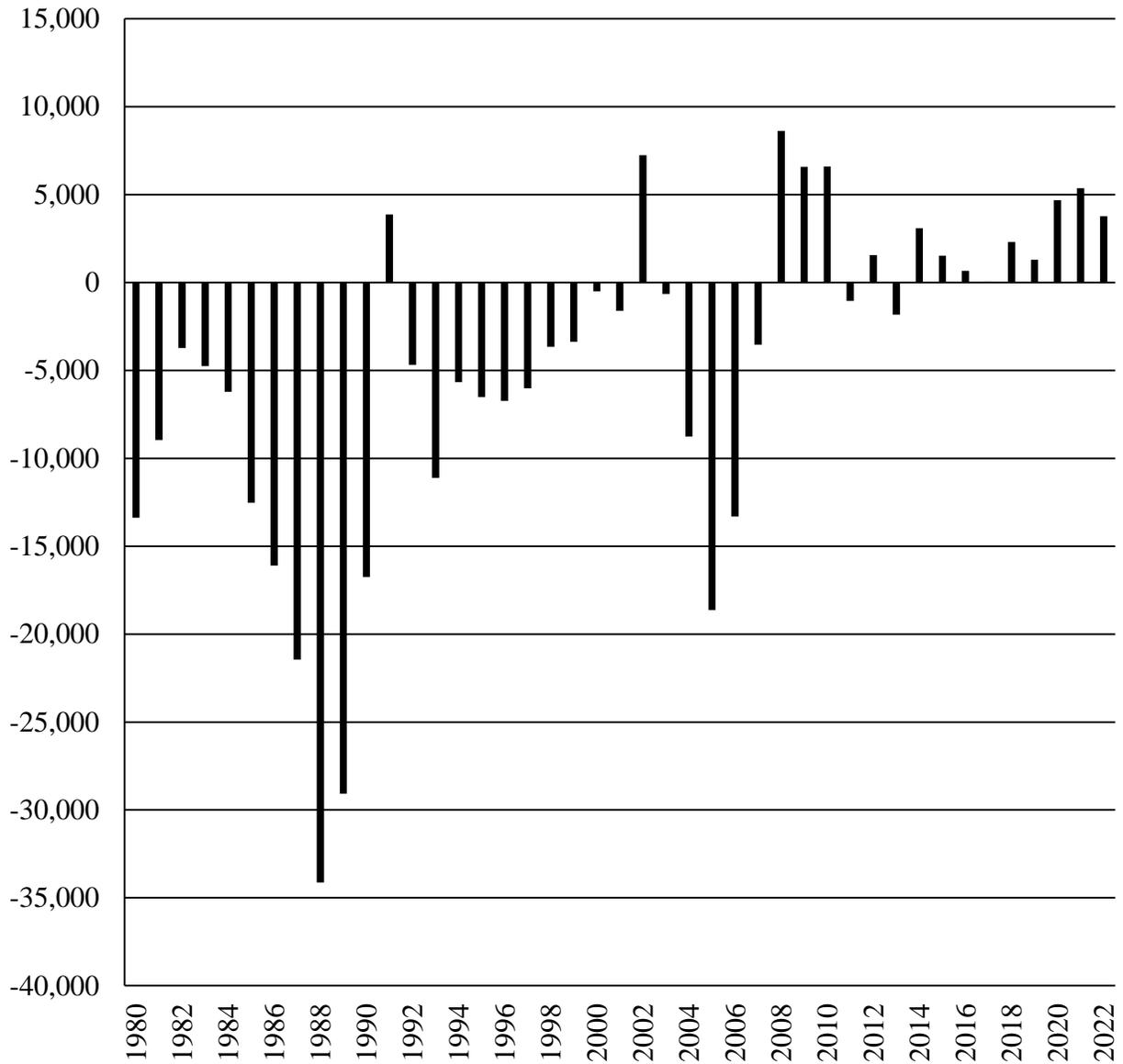


MALPP: Maryland Agricultural Land Preservation Program

Note: Includes easements under the Maryland Agricultural Land Preservation Foundation and the now defunct GreenPrint Program. State records do not exist for agricultural land converted before fiscal 1980.

Source: Maryland Department of Agriculture; State Department of Assessments and Taxation

Exhibit 3
Net Difference in Annual Farmland Preserved and Converted
Fiscal 1980-2022
(in Acres)



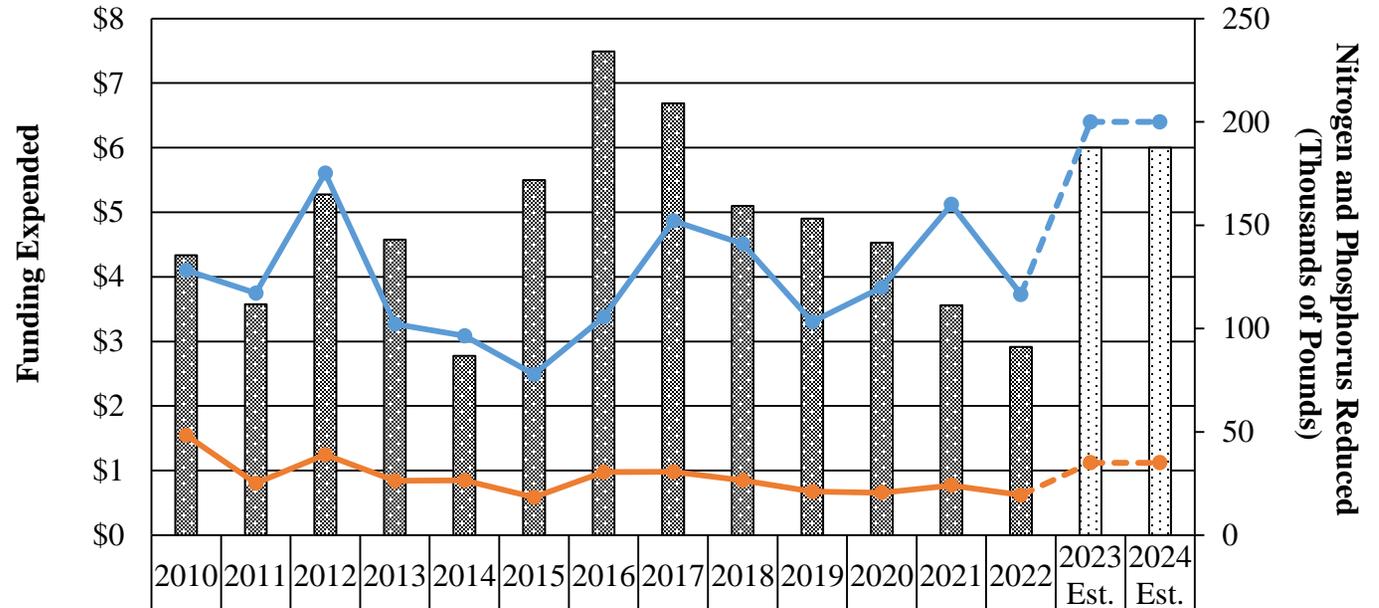
Source: Maryland Department of Agriculture; State Department of Assessments and Taxation

MACS

MDA’s Resource Conservation Grants program has the goal of controlling and reducing agriculture-related water pollution through the implementation of BMPs. MDA has implemented a tracking system that reflects both BMPs installed with State funding and federal financial assistance through the U.S. Environmental Protection Agency (EPA) Chesapeake Bay Implementation Grant and processed through MACS. In contrast, BMPs funded by the U.S. Department of Agriculture are not tracked as part of the budget process; however, BMPs and nutrient reductions are reported to EPA as part of documentation for Maryland’s Watershed Implementation Plan for Chesapeake Bay restoration. MDA has noted that it backfills funding with federal cost-share dollars when federal funding is available.

Exhibit 4 reflects the new BMPs installed by MACS between fiscal 2010 and the 2024 estimate. In recent years, the greatest amount expended in a particular year was \$7.5 million in fiscal 2016 for 632 projects, or roughly \$12,000 per BMP. In fiscal 2022, MACS expended \$2.9 million to complete 251 projects, or roughly \$12,000 per BMP. There has been no trend in nitrogen or phosphorus reductions over the time period shown. MDA has noted in the past that it can take up to two years for practices to be implemented, so the lack of funding in fiscal 2017 reduced the number of projects completed in fiscal 2019. MDA has a new goal of implementing 1,054,607 acres under BMPs by the end of fiscal 2024, which is up from last year’s goal of implementing 939,323 acres under BMPs by the end of fiscal 2023. This new goal is unlikely to be met; only 806,518 acres met this criterion in fiscal 2022, and both the fiscal 2023 estimate of 850,000 acres and the fiscal 2024 estimate of 900,000 acres are well short of the goal. In fact, the number of acres managed under a current conservation plan has steadily been decreasing from 923,896 acres in fiscal 2017 to 806,518 acres in fiscal 2021 – a trend that will need to be reversed if the goal is to be met.

Exhibit 4
Maryland Agricultural Cost-Share Program Statistics
Fiscal 2010-2024
(\$ in Millions)



■ Funding Expended (\$ in Millions)	\$4.3	\$3.6	\$5.3	\$4.6	\$2.8	\$5.5	\$7.5	\$6.7	\$5.1	\$4.9	\$4.5	\$3.6	\$2.9	\$6.0	\$6.0
● Nitrogen Reduced (Thousands of Pounds)	128	117	175	102	97	78	106	152	141	103	120	160	116	200	200
● Phosphorus Reduced (Thousands of Pounds)	48	25	39	26	26	18	31	31	27	21	21	24	19	35	35
MACS Projects	589	539	540	645	603	360	632	359	215	192	315	271	251	400	400

MACS: Maryland Agricultural Cost-Share Program

Source: Maryland Department of Agriculture